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A. THE DRIVER EDUCATION AND EXAMINER PROGRAM RULES AND REGULATIONS FOR COMMERCIAL DRIVING SCHOOLS AND THE BASIC OPERATORS DRIVING SKILL/WRITTEN KNOWLEDGE TEST (BOST) PROGRAMS

CCR 204-3

PURPOSE

The Department of Revenue, Division of Motor Vehicles, Driver Testing and Education Section developed rules, regulations and licensee requirements to establish the working and operational instructions for the conduct of certified Commercial Driver Education programs, Basic Operators Skills Testing Organizations, and third party testers.

The rules, regulations and requirements will furnish guidelines as necessary for Commercial Driving Schools to remain current with changing laws and new programs promoting the safety and welfare of the citizens of Colorado and to aid in the detection of fraudulent activities.

STATUTORY AUTHORITY

Sections: 24-4-103, 42-1-204, 42-2-106 and 42-2-111 C.R.S and in adopting such rules, the Department shall use the guidelines concerning Commercial Driving Schools promulgated by the United States Department of Transportation 12-15-116 C.R.S

(100) DEFINITIONS

a) **BOST:** (Basic Operators Skills Test): means either the Basic Operator Skills Drive Test (BOSD) or the Basic Operators Skills Written Knowledge Test (BOSW), or both.

- b) **Basic Operator Skill Tester:** An individual employed by a Commercial Driving School who has successfully passed the training required by the Department, has successfully met the additional company training requirements, and is certified to administer the BOST.
- c) Basic Operator's skill testing Organization (BOSTO): A Commercial Driving School certified by the Department to conduct the BOST for a permit or driver's license.
- d) **Behind-the-Wheel training (BTW):** An extension of classroom instruction that provides students with opportunities for traffic experiences under real conditions.
- e) **Behind-the-Wheel instructor (BTWI):** An instructor employed by an approved Commercial Driving School who is certified by the Department for behind-the-wheel training.
- f) Clock Hours: Full hour consisting of sixty (60) minutes. Section 12-15-101 (1), C.R.S.
- g) CMV: Commercial motor vehicle.
- h) Commercial Driving School (CDS): Any business or any person who, for compensation, provides or offers to provide instruction in the operation of a motor vehicle and is certified by the Driver Testing Education Section of the Motor Vehicle Division, Department, not including secondary schools and institutions of higher education offering programs approved by the department of education and private occupational schools offering programs approved by the private occupational school division.
- i) Commercial driving instructor: An individual employed by a Commercial Driving School (CDS).
- j) **Curriculum Content:** The content of a course of instruction set by the Department that meets the minimum requirements to obtain a driving permit.
- k) **Department:** The Department of Revenue.
- I) **DTES:** Driver Testing and Education Section.
- m) **Emergency Action Notice:** summary suspension of testing certification pending investigation and possible revocation; issued in order to protect the public health, safety, or welfare. Why is this definition here now that this phrase has been deleted from section 900 (I) and (m)? If it is not used anywhere in these rules, why include it in this definition section?
- n) **Expanded driver awareness program**: A four-hour pre-qualification driver awareness program approved by the Department. Section 42-2-106(d)(I), C.R.S.

- o) **Instruction Permit:** A driving document issued by the Department to allow an individual to drive a motor vehicle or motorcycle, as provided for in section 42-2-106, C.R.S., prior to receiving a Colorado driver's license.
- p) **Revocation of testing certification:** The permanent withdrawal of a BOST tester's or a BOSTO's testing privileges by the Department.
- g) **Shadow drive:** Additional practice in drive testing before certification or re-certification.
- r) **Suspension of testing certification:** An action taken by the Department against a BOST tester or a BOSTO whereby testing privileges are withdrawn for a specified period of time.

(200) GENERAL REQUIREMENTS FOR COMMERCIAL DRIVING SCHOOL CERTIFICATION

- a) Commercial Driving Schools (CDS) shall enter into a written contract with the Department.
- b) The CDS shall have a commercial driver education course of instruction that has been approved by the Department and that equals or exceeds the minimum curriculum guidelines promulgated by the United States Department of Transportation Highway Safety Program Guideline 4 (www.nhtsa.gov) and the Department. Section 12-15-116(2) and (3), C.R.S.
- c) Application for certification must be submitted on forms provided by the Department and must indicate on the form the type of certification being requested.
- d) A copy(s) of the CDS's state, county, or municipal business license(s) or waivers, registration with the Secretary of State, along with any other documentation required by the county or city, must be submitted with an application. Section 12-15-116(2), C.R.S.
- e) A CDS's place of business shall be a separate establishment and not part of a residence:
 - 1. All CDS's shall comply with city zoning and code requirements.
 - 2. All CDS's are required to have a mailing address that is not a post office box.
 - 3. A CDS must request approval for record keeping in a residential home office.
- f) Each new owner/manager must complete Records Management/BOSW training prior to certification.
- g) Insurance: All CDS vehicles must have: proof of current and valid vehicle insurance, vehicle registration, general liability insurance, surety bond, and worker's compensation insurance on file with the Department at all times.
 - 1. The Department must be listed on the general liability and vehicle insurance policies as a secondary insured.

- 2. It is the CDS owner's responsibility to ensure that the insurance company sends the required information to the Department.
- 3. Failure to provide updated insurance and registration information to the Department within 30 days of expiration is grounds for suspension, and such suspension may be in effect until current insurance and/or registration is received.
- 4. A CDS is required to provide an inventory of all vehicles used for testing/training, and proof of second brake installation to the Department. Changes to vehicle inventory shall be reported, in writing, to the Department within 30 days of the change.
- h) Bond: All CDS's shall maintain a surety bond, executed by a surety company authorized to do business in Colorado, in the amount of \$10,000 with the Department.
 - 1. The bond shall be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond attributable to the willful, intentional, or negligent conduct of the CDS, or its agents or employees.
 - 2. The bond may be used to indemnify against loss or damage arising out of the CDS's breach of the contract between the CDS and the student.
 - If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the CDS's certification shall be suspended. The suspension shall continue until satisfactory steps are taken to restore the original amount of the bond.
 - 4. The Department shall be named as the beneficiary on the bond.
- i) Physical facilities: Each CDS requesting certification by the Department must have a place of business with adequate facilities to conduct classes and to maintain all required files and records:
 - 1. All forms issued by the Department shall be kept in locked and limited access areas.
 - A CDS shall not solicit or advertise within 100 feet of any Department or county driver licensing office.
 - 3. A CDS shall prominently display signage stating that the CDS is not an agent of the Department nor does the CDS represent the Department.
 - 4. A CDS shall obtain written permission from property owners, on a Department approved form, prior to conducting driver education training on the property. The written permission must be submitted to the Department prior to the commencement of training on the property.
 - 5. Each CDS shall post its office hours in a conspicuous place and be open to the public during those hours.
 - If a CDS uses approved public facilities as a place of business, then commercial driving instructors for the CDS must maintain a copy of the public facilities' business license and classroom waiver in their possession.
- j) The Department will investigate written complaints about a CDS.

- k) A new CDS may not have a name that is substantially similar to a previously certified CDS. The Department reserves the right to determine if a name is substantially similar.
- CDSs shall monitor and ensure their employees are following all rules, regulations, and statutes.
- m) The Department must receive notice in writing within 3 days of any change in the place of business, directors, owners, or managers of any CDS. Certifications are not transferable.
- n) If a CDS has a change in ownership, then the new owner must file a new application for certification, sign a new contract with the Department and be approved by the Department before beginning operation under the new ownership. Failure to inform the Department of any ownership change shall be grounds for revocation or suspension of CDS certification.

(201) CURRICULUM

- a) CDS that train using behind-the-wheel ride along, simulator, or range driving may not use this time towards the 6 hours behind-the-wheel training, but may count 2 hours towards classroom hours. Time spent on homework should not be included in classroom education hours.
- b) Any change in a CDS's course of instruction requires resubmission and recertification.
- c) When a course of instruction is submitted for approval, the course of instruction shall include a lesson plan with an instructor guide, course outline, and course content, all in the format required by the Department.
- d) A CDS shall teach the approved course of instruction at all times. Failure to teach the approved course of instruction or changing a course of instruction without prior submission and recertification may result in a suspension or revocation of certification of the CDS.
- e) Driver education courses must be equal to, or exceed the requirements, for hours of instruction and course content as determined by the Department.
- f) The course of instruction requirements for a driver education course, Expanded Driver Awareness program, or behind-the-wheel training shall be made available on the Department's official website.

(202) CURRICULUM WITHDRAWAL

- a) Approval of a CDS's course of instruction may be withdrawn for failure to comply with BOST rules and regulations.
- b) If a CDS is notified that approval for its course of instruction has been withdrawn, the CDS shall cease signing all forms that allow an applicant to obtain a permit or license.

c) A CDS may appeal withdrawal of approval for its course of instruction by filing a written appeal within 7 days after receiving notice of withdrawal of approval, with the Hearing Section, whose decision shall be final.

(203) CLASSROOM REQUIREMENTS

- a) With the exception of internet and home study, a CDS must provide a classroom that meets the following requirements:
 - Is large enough to seat all students comfortably, contains at least one adequate seating and desk/table space for each student, and one program instructor's desk, table, or podium;
 - 2. Has curricula presentation equipment for the class;
 - 3. Appropriate clean restroom facilities; and
 - 4. Adequate parking available in close proximity to the classroom.
- b) Approval of the classroom by the Department is required prior to scheduling the first class.
- c) Temporary classroom locations are acceptable provided:
 - 1. Leased or rented classrooms within a public school require a copy of the agreement between the CDS and the public school, including dates and times;
 - 2. Modular units must be inspected and approved by the Department prior to any classes being taught at the unit. Motorized mobile units will not be approved; and
 - 3. The classroom requirements set out in 203(a) are met.
- d) CDS, EDAP and DAP programs shall be separate establishments and shall not be part of home, mobile home, apartment, or living quarters of any kind. Classrooms must project a professional image and provide students with the proper learning environment.

(300) COMMERCIAL DRIVING SCHOOL OPERATING REQUIREMENTS

- a) All CDS shall comply with applicable Colorado revised statutes, Department rules and regulations, and BOST standards.
- b) All CDS shall cooperate with any investigation of a written complaint against a tester or a CDS.
- c) While a CDS may provide information to applicants regarding documentation required by the Department for the issuance of instruction permits, licenses, or identification cards, a CDS may not act as a liaison between the applicant and the Department.
- d) All instructors shall be physically and mentally able to safely operate a motor vehicle and to train others in the operation of a motor vehicle.
- e) All employees of a CDS must:

- 1. Have a CBI background check and an original signature on a Department approved form on file with the Department;
- 2. Submit a new background check and an original signature, on a Department approved form, with each renewal packet;
- 3. Submit paperwork for any new hire within 10 days of employment;
- 4. Have a valid Colorado driver's license that has not been suspended, revoked, forfeited, or denied within the last three years;
- 5. If they drive with students, not have a personal driving record showing the accumulation of 8 or more points in the past three-year period. The Department will randomly audit motor vehicle records (MVR) of all CDS employees. If upon random audit, it is determined that an employee has accumulated more than 8 points within a 3 year period or their license has been suspended, revoked, forfeited, or denied, the employee's certification will be suspended or revoked. If a CDS fails to report a change of status with the driving license of one of its employees, the CDS could face suspension or revocation of its certification.
- 6. If the Department has reason to believe or receives information that an applicant for BOST tester certification, or a certified BOST tester, been convicted of or pled guilty or nolo contendere to a felony or received a deferred sentence to a felony charge, the Department may deny certification or suspend or revoke testing certification.
- 7. Must have a valid tester number on file with the Department:
- 8. Be able to account for all forms in his/her possession;
- 9. Signing a form represents confirmation that training/testing has been successfully completed. Signing when a student has not successfully completed the testing/training will result in suspension or revocation of the employee's certification.
- 10. Must ensure that testing/training forms are fully and accurately completed.
- f) CDSs must notify the Department of the location of all branch offices. Branch opening notices must include copies of the business license(s)/waivers. A notice must be mailed to the Department within 10 days of opening or closing any branch office, and the notice must include the names of all employees to be added or deleted from the CDS's certification and the date the branch office was opened or closed. A branch office is required to meet the all classroom and physical facilities requirements applicable to the main facility.
- g) CDSs must keep their current physical and mailing addresses, contact phone numbers, and the name of one contact person on file with the Department.
- h) The Department will not accept forms that show evidence of alteration. Forms containing an alteration shall be voided and a new form issued.
- i) CDS shall notify the Department in writing within 3 business days of an employee's change of driving status or departure from the CDS.

(301) BEHIND-THE-WHEEL TRAINING

- a) Vehicles used by a CDS for behind-the-wheel instruction must:
 - 1. Be equipped as defined in section 12-15-114 CRS;
 - 2. Be registered and insured as required in articles 3 and 4 of Title 42;
 - Contain a fire extinguisher, eye mirror for the instructor/tester, and a first aid kit per DOT guideline 4;
 - 4. Be available for inspection at audit and, if found to be out of compliance with requirements, may result in suspension of certification until such time as requirements are met:
 - 5. Be available for inspection by the Department prior to certification of a CDS.
- b) All BTW lessons must be in vehicles owned/leased by the CDS. BTW instruction shall not be administered in a student's private vehicle.
- c) Behind-the-wheel training shall be recorded on a Department approved form, which form shall be attached to the BTW completion statement.
- d) If a second student is in the vehicle during BTW training, the second student shall not be given credit towards their 6 hours of BTW. A waiver from a parent or guardian of the second student, stating that the parent or guardian is aware their student will be in a vehicle driven by another novice driver, is required.

(302) INTERNET AND HOME STUDY PROGRAMS

- a) Internet providers shall use the name registered with the Colorado Secretary of State in any advertising within Colorado
- b) Curriculum must equal or exceed the current minimum standards of the Department and be approved by the Department prior to being sold in the State of Colorado.
- c) All out of state Internet providers will enter into a contract in order to be an approved school, but are not eligible to become a BOSTO or basic operator skills tester.
- d) All internet programs must maintain a satellite office in Colorado containing student files for audits. Copies of completion statements must be maintained with the student files.
- e) CDS offering internet or home study programs are required to forward completion statements containing an original signature to students. Electronic, photocopied or faxed signatures do not meet this requirement.
- f) To be eligible for renewal of certification, CDSs offering Internet/home study programs must issue Affidavits of Completion of a Driver Education course to at least 50 students each year.

- g) If a CDS contracts with another CDS to sell an online/home study product, the contract must be submitted to the Department within 10 days of the date on which the contract was fully executed.
- h) The Driver Testing and Education (DTES) manager and auditor will be issued a user name and password so random audits of student records, test scores, curriculum, and security protocols can be performed.
- i) All internet websites or home study material must contain an explanation of current Colorado laws including:
 - 1. Teen permit issuance;
 - Behind-the-wheel requirements;
 - 3. Requirements for licensure.
- j) Internet and home study programs shall be monitored to ensure applicants had the opportunity to review the curriculum for the required number of hours prior to issuance of a completion statement.
- k) All internet and home study programs must have a timer that monitors the length of time an applicant spends on each page of the materials, and is able to stop progress to the next page until the required length of time has expired.
- Each page of internet and home study material must have a code that stops timing for a page if a student does not type in the code or answer a question pertaining to the information on that page.
- m) After two failed attempts to pass a test/quiz, students must review previous material.
- A final test must be administered prior to sending a completion statement. Test questions
 must come from a pool of questions that are scrambled each time a student takes a test or
 quiz.
- o) Students must be shown the correct answers to questions they missed on tests and quizzes prior to re-testing.
- p) Students must receive a score of at least 80% correct answers before being allowed to go to the next module/section, or being issued a completion certificate.

(303) EDAP/DAP PROGRAMS

a) All entities that teach the Expanded Driver Awareness program for the purpose of qualifying students for a Colorado instruction permit must be certified as a CDS and meet CDS curriculum and statutory requirements.

- b) An approved Driver Awareness Program must be approved through the National Safety Council and remain in good standing with the NSC rules, regulations, and teaching standards.
- c) Students must be 15 years and 5 months of age before enrolling in or completing (which is it enrolling? If so then why include completing?) an approved Expanded Driver Awareness program or a Driver Awareness Program offered by NSC.
- d) EDAP and DAP completion statements are valid for 30days from the time of issuance.
- e) Students may not be issued an instruction permituntil they reach 15 years and 6 months of age.

(304) ADVERTISING

- a) CDS must prominently display signage stating the CDS is not an agent of the department and does not represent the Department.
- b) Advertisements shall not imply that a CDS can issue or guarantee the issuance of a Colorado driver's license or permit.
- c) Advertisements and CDS employees shall not imply that a CDS or the employee has influence over the Department in the issuance of a Colorado driver's license or permit.
- d) No CDS, basic operator skills tester, CDS employee, or CDS agent is permitted to solicit on the premises of or within 100 feet of a Colorado driver's license office.
- e) Use of the Colorado State seal or the Department of Revenue seal by a CDS is strictly prohibited.
- f) CDS cannot advertise a business practice that violates any statute, rule, or regulation.

(305) CONTRACTS

- a) All contracts between a CDS and any individual or entity must contain, at a minimum, the following:
 - 1. The total contract charges and full terms of payment; and the number, nature, time and extent of the lessons being contracted for including:
 - i. CLASSROOM INSTRUCTION: hourly rate, the date, time and length of each lesson, and the total number of hours of instruction;
 - ii. INTERNET OR HOME STUDY: mandated completion date if any, the total cost, and a telephone contact number for and the times technical and/or informational help is available.

iii. BEHIND-THE-WHEEL LABORATORY: hourly rate, the date and time of the first and each subsequent lesson, the length of each lesson, the total number of hours, and the rate for any vehicle charges. Cancellation or rescheduling policies must be included in simple language. Contracts for BTW must be valid for at least 12 months, and not effective until a Colorado permit has been issued.

2. All contracts must contain:

- i. A statement that reads: "This agreement constitutes the entire contract between the school and the student, and any verbal assurances or promises not contained herein are not binding on either the school or the student."
- ii. A statement that reads: "Under this agreement an instructor may not provide behind-the-wheel training to more than two individual students per session."

(400) CODE OF CONDUCT

- a) It shall be the guiding purpose and the individual duty of the every CDS, tester, employee, or agent of the CDS to:
 - 1. RECOGNIZE that this is a position of highest public trust, and that many depend upon the wisdom of your decisions.
 - 2. IMPARTIALLY administer all official duties without regard to race, gender, creed, national origin, position or influence.
 - 3. CONDUCT all examinations in a manner reflecting their importance to public safety.
 - 4. SERVE the public with all possible promptness and courtesy and not bully, threaten, degrade, put down, or disgrace any student or any other CDS. Inappropriate actions will result in curriculum withdrawal, suspension, or revocation of the organization's certification.
 - 5. Not ACCEPT any present or favor from an applicant or on behalf of an applicant.
 - 6. CONVEY only authorized information to the public.
 - 7. SERVE people with disabilities in an impartial manner.
 - 8. WORK only by official testing standards never substituting personal ideas for prescribed methods.
 - 9. MAINTAIN a professional appearance and demeanor.
 - 10. UPHOLD the honor and dignity of the profession by reporting any fraudulent or illegal activities.

11. CARRY out all duties not specifically covered by this code with the safety and welfare of the public as the controlling motive.

(500) BOSTO CERTIFICATION

- a) A CDS that is listed as a full time (teaches required curriculum and offers BTW instruction) with the Department may apply to administer BOST tests. Testing must be equal to the testing of the Department. Section 42-2-111(1)(b)(1), C.R.S.
- b) Before applying for BOSTO certification, a CDS must submit copies of 25 student classroom completion statements and ten 6-hours BTW completion statements for students under the age of 18 to the Department.
- c) BOSTO certification and BOST tester certifications must be renewed annually before a current certification expires.
- d) To renew a BOSTO certification, a CDS must provide statements reflecting class completion for 50 students and 6-hours BTW completion for 25 students under the age of 18 for the preceding year. Any CDS that does not meet this requirement will have its BOSTO written and drive testing privileges suspended. A CDS may re-apply for testing privileges with the next yearly renewal packet, if the minimum teaching requirements listed above have been met.
- e) Owning or operating a CDS does not confer certification to administer the BOST written knowledge or drive test for the State of Colorado. BOST written knowledge or drive tests may only be administered by a CDS certified as BOSTO by the Department.
- f) BOST testers who do not follow Department standards, or who sign completion statements for students who have failed written knowledge or drive tests may have their certification as BOST testers revoked or suspended, and the certification of the CDS employing such BOST testers may be suspended or revoked.
- g) Requests for training and certification as a BOSTO:
 - 1. Must be submitted in writing on a Department approved form;
 - 2. List all employees for BOST training and certification, and such employees must be at least 21 years of age and have a valid Colorado driver license; and
 - 3. All employees listed must be physically and mentally able to safely operate a motor vehicle and to administer the written knowledge and drive tests.
- h) All forms submitted for BOSTO certification shall be kept by the CDS in a secure location and remain under the control of the CDS.
- i) Upon successful completion of the driving skills tester training course, and having met all additional company training and Department requirements, the Department may certify the

- CDS as a BOSTO. The Department will issue a separate BOST number and certification to each employee successfully completing the required training.
- j) CDS must have at least one employee certified as a BOST tester to maintain BOSTO certification.
- k) In the event the BOSTO certification for a CDS is not renewed, or is revoked or suspended, all individual BOST certifications within that CDS will be cancelled.
- A CDS may cancel their BOSTO certification or the BOST certification of any employee by notifying the Department in writing. Cancellation of a certification does not nullify any of the terms of the contract between the CDS and the Department.
- m) CDS must ensure that all their BOST testers continue to meet the training and qualification standards required to conduct BOST tests. Failure of a tester to attend scheduled training may result in suspension of testing privileges.
- n) CDS shall ensure that each BOST tester they employ follows the Department's standards for administering BOST tests.
- o) Written knowledge and driving skill tests administered by BOST testers must be equal to the training and examination conducted by the Department.
- p) A CDS suspended from BOST drive testing will also be suspended from written knowledge testing.
- q) A BOST tester may be employed by more than one CDS certified as a BOSTO. A BOST tester employed by more than one CDS certified as a BOSTO will be issued a separate certification number for each CDS employing the BOST tester. A BOST tester certification is valid only while the tester is employed by the CDS listed on the certificate.
- r) The Department reserves the right to retest an applicant at any time.
- s) The Department shall issue a unique tester number to each BOST tester. BOST testers shall use only their assigned number. Unauthorized use of certificate numbers will result in revocation or suspension of an individual's BOST certification and may result in revocation of BOSTO certification for the organization employing the BOST tester.
- t) BOST testers shall refer applicants seeking the following services to a Colorado driver license office:
 - 1. Any skills test required after a rehabilitation program.
 - 2. A drive test after having failed 4 previous drive tests.
 - 3. A written knowledge test after 2 failed attempts.

- 4. An applicant under restraint action.
- 5. An applicant taking a re-exam test.
- 6. An applicant using a one-day permit.
- 7. An applicant unable to produce a photo ID or a parent without proper identification as the parent of a minor seeking testing

(501) THE BOST DRIVE TEST

- a) Drive test routes must be approved by the Department prior to certification of a CDS as a BOSTO. BOST testers shall administer the BOST drive test only on routes approved by the Department for the CDS employing the tester. CDS must request and receive approval from the Department for any changes to an approved drive route prior to administering a road test.
- b) A CDS certified as a BOSTO that has multiple physical locations must request approval for each route prior to testing. Testing on an approved test route must begin from an approved teaching/public location.

What happened to c)?

- d) Two approved drive test routes are required for each testing location
- e) Both CDS and the Department are required to maintain copies of approved drive routes in their files.
- f) All BOSTO drive testing must be conducted on one of the two approved routes. BOST testers must use both routes on a regular basis. Any testing on a route not previously approved may result in suspension or revocation of certification.
- g) Using approved testing routes as a "pre-test" or as BTW practice for students will result in suspension or revocation.
- h) Only BOST testers may administer the drive test and sign the (DR2735) Basic Operators Driving Skill test completion statement. The DR2735 will remain valid for 60 days from the date of completion.
- i) It is the responsibility of CDS to ensure BOST testers complete all testing forms correctly.
- j) A BOST tester's signature on a driver completion statement constitutes a representation by the BOST tester that the applicant whose name is on the completion statement took and passed the drive test.
- k) All CDS shall hold the State harmless from liability resulting from the CDS's administration of the BOST drive test.
- I) Prior to administering any test, BOST testers shall ensure applicants have, in their immediate possession, a valid instruction permit and meet all the current statutory licensing requirements

- m) A road test is not allowed if an applicant does not meet statutory licensing requirements. Testing an applicant before they meet the statutory requirement and/or postdating a BOST completion statement constitutes fraudulent activity and is grounds for suspension or revocation of BOST certification
- n) BOST testers must verify that any vehicle used for testing is/has:
 - 1. Properly registered and insured. Both the insurance and the registration cards must be in the vehicle and match the vehicle identification numbers;
 - 2. Both front and rear license plates must be attached to the outside of the vehicle;
 - 3. Passed a safety inspection to ensure all necessary equipment is in safe operating order, and that the vehicle meets all applicable state statutes for operation on a city street;
 - 4. Met the equipment standards as described in 301(a) of these Rules;
 - 5. Inspected for compliance with this subsection prior to every drive test, regardless of who owns the vehicle (see comment below regarding 301(b); and
 - 6. Either registered to the CDS as a training vehicle for BTW training or a vehicle provided by the applicant.
- o) Prior to administering a BOST drive test, testers shall complete the information section of the (DR2732) score sheet including the date of the test, applicant/ vehicle/ organization/ tester information, and, after the instructions have been read, fill in the start time on the score sheet. Once the car has been secured at the end of the test, the finish time and applicant's score shall be written on the score sheet, even if the applicant has failed the test.
- p) Applicants and testers are prohibited from smoking, drinking, or eating during a drive test. All electronic devices and cell phones must be turned off during the test.
- q) Testers must conduct a full driving test in accordance with statutes, rules, contract, and BOST standards. All tests shall be recorded on forms provided by the Department.
- r) BOST drive tests may only be administered during daylight hours.
- s) After a drive test is completed, testers shall immediately critique the applicant's performance on the test in a location outside of the vehicle. If the applicant is a minor, the critique shall be done in the presence of the parent/guardian.
- t) Upon successful completion of a BOST drive test, testers shall complete the DR2735, Basic Operator's Driving Skills Test completion statement. Tester and applicant shall sign the form. Tester shall staple the pink copy of the DR2735 to the score sheet (DR2732).
- u) BOST testers shall note all failures on an applicant's drive test score sheet and fax or email failed score sheet to DTES within 24 hours of the test.
- v) If an applicant fails a drive test, BOST testers are to write "fail" and the date on the back of the applicant's permit with a sharpie.

- w) A minor under 18 years of age holding an out of State instruction permit may take one drive test on the permit if the minor has met the statutory requirements. An applicant 18 years of age or older with an out of State instruction permit may not be tested by a CDS.
- x) Testers shall not administer more than one complete driving test per day to any applicant. Giving an applicant more than one test per day will result in an automatic suspension.
- y) No passengers, pets, or interpreters may be in a vehicle during a drive test. Occupants in a vehicle during a driving test are limited to the applicant and the tester, with the following exceptions:
 - 1. A Department representative when an audit is being performed for quality assurance purposes.
 - 2. Another BOST tester may be in a vehicle for training and evaluation purposes with prior notification to and approval from the Department.

(502) THE BOST WRITTEN KNOWLEDGE TEST

- a) BOST testers administering the written knowledge test shall issue the BOST written knowledge completion statement (DR2238) to the applicant upon successful completion of the written test. The DR2238 form is valid for 30 days from the date of issue. Only certified BOST testers may sign this form.
- b) BOST written knowledge tests:
 - 1. Shall be administered and proctored only at an established place of business;
 - 2. Shall only be proctored by an individual with a BOST tester number;
 - 3. Applicants are not to be allowed access to written material, cell phones, or electronic devices while testing:
 - Applicants must write their full name, date of birth, and the date of the test in the information box provided on the BOST written knowledge test;
 - 5. A score of 80% or higher (0 to -5) is required to pass;
 - 6. Must be graded correctly using the score key and a red pen;
 - 7. Only two per applicant are permitted. If an applicant fails two written tests, all subsequent tests shall be taken at a Department driver license office; and
 - 8. If an applicant fails the first test, then the second test must be a different version of the test. If an applicant misses more than 10 questions on a first test attempt, the applicant must wait until the next day to test again.
- c) An interpreter shall not be allowed to interpret the BOST written knowledge test unless the certified tester can interpret in the required language and only interprets the questions and answer choices. Who is doing the interpreting? The interpreter or the certified tester?
- d) The BOST written knowledge test shall not be given to any applicant under the age of 14 years and 11 months.
- e) BOST written knowledge tests shall not be used as "practice" or "pre" tests.

- f) BOST written knowledge tests may not be copied outside the physical facilities of a CDS. Written knowledge tests must always be under the direct supervision and control of a CDS.
- g) Written completion statements shall not be partially or fully completed until after a student has completed and passed the written test.
- h) BOST testers administering the written knowledge test shall periodically check with the Department to confirm they have the most current version of tests/keys.
- i) Tests must be proctored and graded by a BOST tester 21 years of age or older, with a BOST written certification.
- j) The BOST tester signing the DR2238 is responsible for the accurate grading of the test. Tests graded incorrectly may result in a suspension of the signing BOST tester's certification. Repeated incorrect grading of written knowledge tests will result in a revocation of BOST (which is it written or all?) testing certification.

(503) BOST TESTER REQUIREMENTS

- a) BOST testers shall administer at least 2 drive tests per month with a minimum of 24 drive tests per year. Failure to complete the minimum number of tests will result in suspension of a tester's certification for the remainder of the certification period.
- b) Only testers certified by the Department to give the BOST drive test are authorized to administer the drive test and sign the BOST completion statement (DR2735).
- c) All BOST testers must have had a valid driver's license for at least 4 years and be at least 21 years of age.
- d) BOST drive testers must attend a least one continuing education class for updated testing practices every two years. Failure to attend a Department continuing education class within a two year period will result in non-renewal status for the tester until continuing education has been successfully completed. Proof of continuing education must be kept by a CDS in the tester's file for periodic review by the Department.
- e) BOST testers cannot administer any BOST test to a member of their immediate family. "Immediate family" is defined at section 42-1-102(43.5), C.R.S.
- f) A potential BOST tester must: complete and pass the BOST training class; show proof of four shadow drives on each route the tester will be testing on (all within 3 errors of another certified tester) and complete all shadow drives within 6 weeks of passing the BOST training class.
- g) To be eligible for a BOST drive test class, a potential BOST tester must have provided at least 24 hours of BTW training.

- h) Applicants failing the BOST test with a certified tester shall only be re-tested by a different certified tester (unless hardship can be determined by the Department).
- i) An expired completion statement (after 60days) will require the applicant to retake the test.
- j) Postdating, pre-dating, or partially completion of any form is not allowed. A form with only a signature and a tester number on it is a form that may be fraudulently used.

(600) RECORDKEEPING AND REPORTING

- a) CDS shall use all forms required by the Department and shall account for all controlled forms issued to them.
- b) Issued forms shall be used in control number order. Each series of assigned completion statements must be completed before a new series is started
- c) Records must be stored securely for a period of three years. Records include all contracts, student enrollment, BTW logs, written tests, progress reports, student completion statements, and BOST forms.
- d) After three years all records shall be shredded.
- e) All forms issued, including those for passed and failed examinations shall be logged on a CDS's monthly report.
- f) CDS shall submit monthly reports on Department approved forms. Reports shall be submitted electronically to the Department by the 10th day of each month for the previous month's activity, even if there was no activity. Incomplete reports will not be accepted.
- g) All voided control numbered forms should be logged on monthly reports, filed in numeric order, with a note stating why the document was voided and the number of the replacement form. All replacement forms must be dated using the same date as the original form, with the exception of a drive retest.
- h) Monthly reports submitted by CDS to the Department should report all student and testing activity including, but not limited to, monthly classroom schedules, class completion statements, BTW completion statements, written knowledge completion statements, and drive test completion statements.
- i) CDS and testers are responsible for securing both blank and completed forms.

(700) AUDITING

- a) CDS shall allow the Department to observe classroom instruction and/or BTW training.
- b) CDSs certified as BOSTOs are required to allow onsite inspections, examination and audit by a Department representative without prior notice in order to:
 - 1. Review student completion statements, BTW logs, BOST written knowledge and drive testing records.
 - Observe classroom instruction.
 - 3. Observe BTW instruction.
 - 4. Inspect vehicles.
 - 5. Observe and score live road testing by a BOST tester and compare pass/fail scores.
 - 6. Test the skills of BOST testers who administer the drive test.
 - Audit monthly reports for supporting data, advertising, and continuing education certificates.
- c) A CDS/BOST tester must surrender testing records upon request. The CDS/ BOST tester may make copies and retain copies of such records.
- d) Audits may be conducted at the CDS office, the Department's office, or at another location as determined by the auditor.
- e) To assure that CDS continue to meet the standards established by the Department, a Department representative will conduct on-site or virtual (for internet providers only) compliance inspections as often as the Department deems necessary, to review contracts, student enrollment and progress records, BTW logs, student completion records, classroom facilities, vehicle and testing records. Testing records will be checked for accuracy and completeness, missing or voided records and, in the case of control numbered documents, for numerical filing sequence.
- f) During Department compliance audits, CDS shall cooperate with the Department, allow access to testing areas and routes, and supply student and testing records, results, and any other items as requested by the Department.
- g) BOST drive testers will be evaluated either during an actual drive test or a drive test with a Department representative as the driver. BOST testers must follow Department procedures, meet Department standards, and must pass the evaluation with a score of 80% or higher. Failure to pass the evaluation will be grounds for the Department to require additional continuing education or suspension of BOST tester certification.
- All CDS, BOSTO, and BOST records must be accessible during normal business hours and made available to a Department representative upon request.

(800) CERTIFICATION/LICENSE RENEWAL

- a) CDS curriculum approval and BOST certification are valid from July 1st through June 30th of the following calendar year. The Department shall determine when curriculum review is required. Curriculum review will not be conducted more frequently than annually, unless course content changes.
- b) BOST certifications, CDS certifications as BOSTOs, and CDS contracts with the Department are subject to annual renewal.
- c) Renewal applications are due June 1st of each calendar year. Applications not received and approved by June 30th will result in placement of a CDS in "not renewed" status, meaning the Department will not honor completion forms or driver education certificates from the CDS.
- d) Incomplete renewal applications will be returned to a CDS.

(900) SUSPENSION/ REVOCATION/ CESSATION OF BUSINESS

- a) CDS must return all copies of written knowledge tests and keys, licenses/certifications, and any control numbered documents within ten days of cessation of business.
- b) Monthly reports not received by the 10th of the month for the previous month will result in a suspension of testing privileges for 30 days, unless a hardship is determined by the Department.
- c) Refusing to be audited will result in suspension of testing privileges.
- d) Failure of a CDS to address and/or correct problems found in the previous audit may result in suspension of certification.
- e) Fraudulent or criminal activity involving any CDS or CDS employee will be grounds for revocation. Such activity may be reported to appropriate State/Federal authorities.
- f) A CDS of BOST tester supplying false information to the Department will have their CDS certification or BOST tester certification suspended or revoked. Fraudulent testing or the fraudulent use of the forms and/or completion statements shall result in the suspension and/or revocation of the BOST certification.
- g) The certification of a CDS, BOSTO, or BOST tester may be suspended or revoked for failure to comply with these rules and regulations, BOST standards, or contract obligations.
- h) Any BOSTO or BOST tester who omits any test requirement from a written knowledge or driving skill test, or participates in any illegal activity related to driver licensing, may be subject

to penalties including loss of testing authorization, criminal prosecution, and restitution for costs and fees incurred by the test applicant and/or the Department.

- Any information concerning illegal, or fraudulent activity concerning, but not limited to written knowledge or driving skills testing, will be referred to the appropriate law enforcement authority.
- j) Any person who's testing was improper, illegal or fraudulent, may have their driver's license revoked. The CDS who is certified as a BOSTO will be liable for the costs associated with retesting.
- k) Repeated violations of these rules and regulations by a CDS or BOST tester will result in a review of the testing privileges by the Department
- I) The Department may issue a suspension letter to any CDS or BOST tester if the Department has credible evidence that a CDS or BOST tester has violated the provisions of these rules and regulations, state statutes, or that the public health, safety, or welfare requires emergency action. A suspension letter shall serve as notice to immediately cease testing until an investigation or hearing is complete.
- m) Upon receipt of a suspension letter, a CDS, BOSTO, and/or BOST tester must immediately stop all BOST testing. A CDS, BOSTO, or BOST tester may file a written appeal with the Department's Hearing Section within 7 days of receiving the suspension letter. The decision of the Department's Hearing Section constitutes final agency action.
- n) Written complaints received by the Department regarding the requirements of these rules and regulations may result in an investigation through the Department or the Motor Vehicle Investigative Unit. Section 42-1-222 CRS.
- o) If a CDS is found to be in violation of the terms of its contract with the Department, then the contract between the Department and the CDS may be terminated.

B. GRANDFATHER PROVISIONS

Law enforcement agencies that are licensed as BOSTO's as well as rehabilitation providers are exempt from the requirements for approval as a CDS.

All publications and statutes incorporated by reference in these Rules and Regulations are on file and available for public inspection by contacting the Department of Revenue, Division of Motor Vehicles, Driver Testing and Education Section, 1881 Pierce Street, Room 114, Lakewood, Colorado, 80214. This rule does not include later amendments to or additions of any materials incorporated by reference.

*Materials incorporated by reference may be examined at any State publication depository library.

C. RULES AND REGULATIONS FOR MONITORING DRIVER IMPROVEMENT SCHOOLS AND COLLECTING THE PENALTY SURCHARGE FUND

BASIS, PURPOSE AND STATUTORY AUTHORITY

The statutory authority for the Department to promulgate Rules and Regulations as necessary for monitoring Driver Improvement Schools is: Sections 42-1-204; 42-1-223, 42-4-1717; and 24-4-103 C.R.S.

The purpose is to implement driver improvement classes for which court ordered defendants can electronically register, driver improvement schools can electronically post a defendant's pass/fail grade; and courts can access defendant's grade and information. A penalty surcharge is assessed to fund implementation of a program to monitor and evaluate driver improvement schools. Sections 42-1-223 and 42-4-1717 C.R.S

(1000) DEFINITIONS

- a) Contractor: Vendor hired to monitor and evaluate Driver Improvement Schools.
- b) Web-based Reporting: A web-based registration and reporting system used by defendants, courts, and driver improvement schools.
- c) Curriculum: A course of instruction that meets both the statutory requirements and the curriculum set out in these Rules and Regulations.
- d) Department: Colorado Department of Revenue
- e) Driver Improvement School: Court approved school providing a course of instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations and instruction in traffic accident prevention.
- f) Penalty Surcharge: The amount determined by the Department to be paid by defendants to offset the direct and indirect cost of monitoring driver improvement schools. The penalty surcharge shall be collected by driver improvement schools, and remitted to the Department at least monthly. Section 42-4-1717(3)(a) C.R.S.

(1100) CURRICULUM REQUIREMENTS

- a) Instruction on the traffic laws of Colorado must include instruction in the following areas:
 - 1. Speeding and passing;
 - 2. Obeying traffic control devices;

- 3. Intersections, lane changes and turning;
- 4. Stopping and yielding;
- 5. School crossings, pedestrians and crosswalks;
- 6. School buses and emergency vehicles;
- 7. Major criminal violations;
- 8. Seat belt and child restraint laws;
- 9. Cell phone law; and
- 10. DUI laws and penalties
- b) Instruction on the recognition of hazardous traffic situations must include instruction in the following areas:
 - 1. Driving while intoxicated or on illicit drugs or medications;
 - 2. Road construction;
 - 3. Reaction time and following distances;
 - 4. Driving in adverse conditions; and
 - 5. Proper vision techniques.
- c) Instruction in traffic accident prevention must include instruction in the following areas:
 - 1. Vehicle maintenance;
 - 2. Recognition of physical, sensory, and mental limitations and disabilities (fatigue, stress, attitude or altitude);
 - 3. Road rage;
 - 4. Inattention and distractions; and
 - 5. Sharing the road (bicycles, motorcycles, pedestrians, emergency vehicles).
- d) The minimum time for a course of instruction at a driver improvement school is four hours, unless otherwise ordered by a court. The four hours shall include testing, but exclude breaks and lunch.
- e) Instructors shall make the determination, in accordance with these Rules, whether a student has participated to the extent required to have passed the course of instruction.
- f) A driver improvement school shall use only curriculum or teaching methods approved by the Department.
- g) A driver improvement school shall not teach subjects unrelated to traffic safety, including but not limited to:

- 1. Court room procedures;
- 2. Beating traffic tickets; and
- 3. Police jurisdictions.

(1200) LOCATION AND SECURITY OF CLASSES

- a) Classrooms must provide students with a proper learning environment, which includes:
 - 1. Adequate classroom seating and writing surfaces for all students;
 - 2. Appropriate room temperatures;
 - 3. Appropriate lighting for reading;
 - 4. Uninterrupted class time;
 - 5. Compliance with health and safety ordinances including:
 - i. Clean and adequately stocked restrooms;
 - ii. ADA (Americans with Disabilities Act) compliant facilities; and
 - iii. A student ratio that does not exceed fire code limit.
 - 6. Safe and secure parking area; and
 - 7. Classes shall not be held in living quarters of any description.

(1300) QUALITY AND EFFECTIVENESS

- a) Instructors shall collect the court referral form (DR 2466) and proper identification prior to the start of class.
- b) Instructors must verify that students are registered with the web-based reporting system for a student to get credit for a class.
- c) All students must be punctual and attentive.
 - 1. A student must not be more than 10 minutes late for the start of class in order to get credit for a class.
 - 2. A student must not be more than 5 minutes late, when returning from break, to get credit for a class.
- d) Instructors shall not allow sleeping, use of cell phones or other electronic devices, or engagement in activities that are not part of the approved driving course during classroom instruction.
- e) Instructors shall:
 - 1. Dress in an appropriate and professional manner;

- 2. Exhibit the highest degree of ethical conduct;
- 3. Maintain the confidentiality of information provided by students;
- 4. Be objective and impartial in the classroom and presentation of the course;
- Not accept any gratuities or favors from a student, other classroom participants or a court employee;
- 6. Avoid the appearance of a conflict of interest or self-dealing. A conflict of interest or self-dealing may arise when an instructor has an interest which may be perceived as self-serving or adverse to the position of the student, the driver improvement school, or the court.
- 7. Not use the classroom as a forum for any purpose except presentation of the approved curriculum.
- 8. Respond to questions or comments in a constructive manner, and encourage student interest and participation;
- 9. Respond in a constructive and professional manner to any disruptive activity in a classroom;
- 10. Refrain from making derogatory comments concerning the courts, court employees, law enforcement, Department representatives, the judicial system, or the Department and any of its divisions;
- 11. Understands the approved curriculum and has the knowledge and training to present the curriculum to students through an understandable learning technique; and
- 12. Remain informed of statutory or local ordinance changes concerning traffic laws.

(1400) REGISTRATION WITH THE DEPARTMENT

- a) All driver improvement schools are required to register with the Department, using the webbased reporting system.
- b) Registration by driver improvement schools on the web-based reporting system, provides the courts with an information concerning:
 - 1. the quality and effectiveness of the course of instruction;
 - 2. the safety and security of the classroom; and
 - 3. whether or not a defendant has completed the course of instruction.

(1500) DRIVER IMPROVEMENT SCHOOLS ARE APPROVED BY THE COURTS

Driver improvement schools are required to register with the web-based reporting system and their curriculum must be approved by the courts.

(1600) COLLECTION AND DISTRIBUTION OF PENALTY SURCHARGES

- a) Driver improvement schools shall collect a penalty surcharge per student. Driver improvement schools shall not collect a surcharge for any student presenting written documentation from the referring court of waiver of the surcharge.
- b) Penalty surcharges shall be remitted to the Department, using the Department approved form (DR2467). The amount of penalty surcharge is published on the web-based reporting system.

(1700) WEB-BASED REPORTING SYSTEM

- a) Driver improvement schools are required to use the web-based reporting system to electronically report the names of all students attending a driver improvement course of instruction.
- b) Failing to report student attendance, under reporting student attendance, or failing to report whether a student has passed or failed the course, will result in a driver improvement school being listed on the website as non-compliant.
- c) Driver improvement schools are responsible for entering student pass/fail information into the web-based reporting system within 48 hours after class.
- d) Remittance form(s) (DR2467) and the accompanying penalty surcharges are required to be submitted to the Department by the 5th of the each month for the previous month's students.

(1800) RECORD KEEPING

Driver improvement schools are required to maintain:

- a) A roster for each class conducted that includes each student's name and signature;
- b) Student roster's shall be available for audit review upon request by the Department; and
- c) Student rosters will be maintained, in a secure location, for a period of at least three years.

(1900) ENFORCEMENT

- a) Audit reports will be available to the court within 3 months of the date of the audit.
- b) Any school not meeting the standards set out in these Rules and Regulations, or deemed ineffective, will be listed, for court review, as non-compliant.
- c) To ensure driver Improvement schools continue to meet the standards set forth by the Department, the Department's contractor will conduct on-site reviews annually or as often as the Department deems necessary.
 - Any driver improvement school not allowing the Department access for audit purposes will be listed, for court review, as non-compliant.